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ABSTRACT

This paper analyzes Texas Senate Bill 351 that reforms public school funding. The bill provides for additional state funding and significant increases in local property taxes. The bill creates county education taxing units to neutralize the enormous property wealth differences found among the state's 1,056 school districts. It also provides a second funding tier that guarantees districts a minimum amount of funding per pupil for every cent of tax effort above the county unit tax level, up to a maximum of 45 cents. In addition to partially equalized enrichment, the state funding system continues to allow a degree of "unequalized" enrichment. Two new provisions limit the extent of financial inequality permitted within the funding system. The new bill provides tax rollback protection for a maximum of 8 cents of additional tax effort. Non-finance reforms included increasing the number of instructional days from 175 to 180 days, reducing the number of teacher inservice days, and providing 40 hours of staff training during regular hours of required teacher service. The strength of the bill lies in efforts to equalize funding through the county taxing units, guaranteed yield, and caps on additional funding. Weaknesses of the bill are: (1) under-funding of the guaranteed yield; (2) continued unequalized enrichment; (3) no funding for facilities; (4) changes in local property taxes that penalize those with the greatest need; and (5) lack of appropriations to make the new system operational. (KS)

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Texas Legislature Adopts School Funding Plan

by Albert Cortez, Ph.D., Director of IDRA's Division of Research and Evaluation

Thirty minutes before the Texas Supreme Court hearing was to receive a report on the status of legislative actions on school finance reform, Governor Ann Richards signed Senate Bill 351, the 1991 school finance bill, into law. The bill was the end result of long and often bitter legislative battles concerning how the state's public school system would be changed in order to comply with a court-mandated directive to reform the way public school systems were funded in Texas. The legislation was marked by a series of compromises which left only its staunchest defenders satisfied with the outcome.

The Conference Committee Report on Senate Bill 351 maintained the state funding increases originally projected in Senate Bill 1, (the legislation found to be unconstitutional by the Supreme Court), for the next two bienniums. The new bill provides for an infusion of approximately $1.3 billion in additional state funding in the 1992-93 biennium, with an additional $3 billion in state aid projected for 1994-95. Although there is a sizable increase in state support, much of the funding for the reform bill will be generated from significant increases in local property taxes which are integrated into the legislation.

County Education Units

The major structural change made to the funding system is the creation of county education taxing units which were used to neutralize the enormous property wealth differences found among the state's 1,056 school districts. The creation of these taxing units was designed to enable local school districts located within these county units to share their tax bases and, therefore, help fund the basic or "foundation school program" mandated by the state. By using the county unit structure, the state is able to require existing school districts within these units to share their tax revenue. As in the local fund assignment that used to be required of local school districts, the state requires every county unit to levy a minimum tax rate to generate the county unit's local share of the basic educational program. Money generated from this tax is then re-distributed by the county unit on an equalized basis to all school districts located in that county unit.

Using the county unit approach for funding the basic program allowed the state to avoid the controversial issue of district consolidation. At the same time, it enabled the state to reduce the tax base disparity of *700 to 1* among Texas

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school districts to a ratio of *6 to 1* among the newly created county taxing units.

Guaranteed Yield Continued

Although the creation of county education units was used to equalize the tax bases available to districts for supporting the basic program, the long-standing practice of allowing school districts to supplement the foundation program was continued by the new legislation. The state, however, did provide some degree of equalization funding to help offset the effect of widely varying local school district tax bases. It continued to provide a second funding tier where districts are guaranteed a minimum amount of funding per pupil for every cent of tax effort above the county unit tax level, up to a maximum of 45 cents.

Unequalized Enrichment

In addition to partially equalized enrichment, the state funding system continued to allow a degree of "unequalized" enrichment. Unequalized enrichment is defined as the part of educational funding where local districts generate additional property tax revenue which is based entirely on the existing tax base in a district (refer to chart tier 3).

Maintaining Equity

Two new provisions in Senate Bill 351 were developed, however, to *limit* the extent of financial inequality permitted within the state's funding system. One was the setting of a maxium tax rate of $1.50. The second provision took the form of a revenue limit which is triggered when more than 2% of the state's students attend school in districts that spend more than 110% of the state's equalized funding level (excluding existing debt service costs).

Tax Rollback Provisions

Another factor which will impact districts' ability to raise revenue is the change made to the tax rollback language found in the current law. While the old law allowed districts automatic exemptions from the 8% tax rollback "trigger" if additional taxes were required to get maximum state aid or to recover from cutbacks in state funding, the new bill provides tax rollback protection for a maximum of 8 cents of additional tax effort. Any tax effort above the 8-cent limit subjects a district (whether poor, average or wealthy) to the possibility of a tax rollback election.

Non-Finance Reform Provisions

While the legislation was primarily focused on reforming the state funding structure, two peripheral issues were incorporated into the final bill. First, the legislature increased the number of instructional days from 175 to 180 days beginning in the 1991-92 school year. In the second change the state reduced the number of teacher in-service days from eight days to three days. In a related move, legislators required school systems to provide 40 hours of staff training which was to be provided during "regular hours of required teacher service."

The chart presented on the facing page summarizes key elements of the new legisla-

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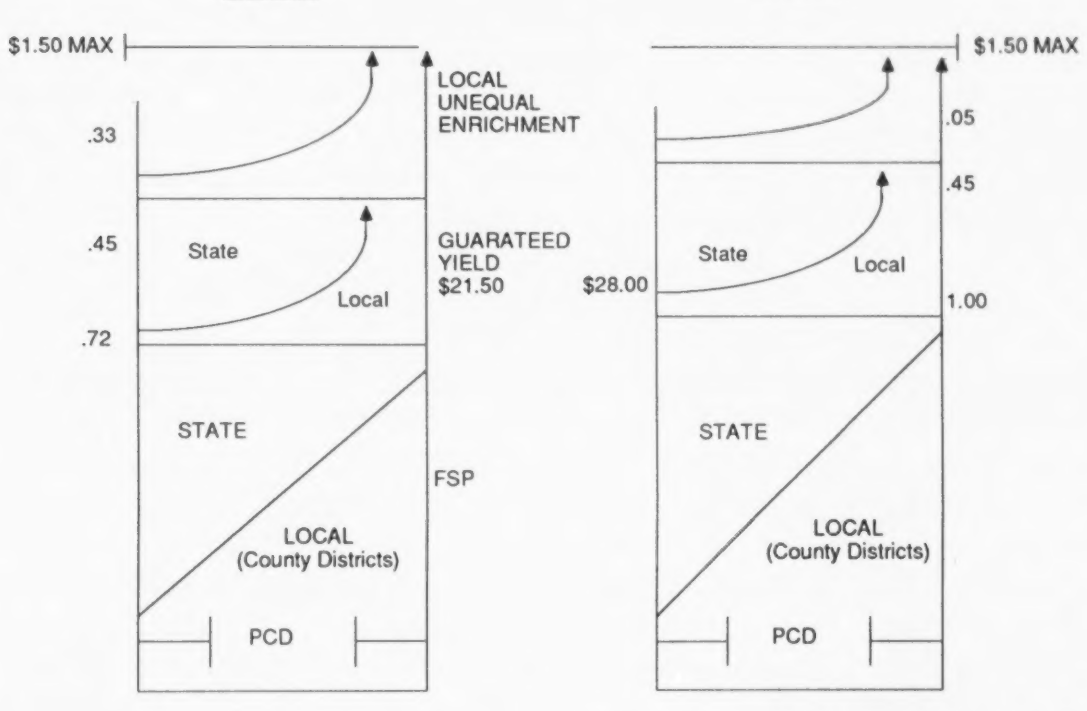
		Current Law	Senate Bill 351	
Basic Allotment	91-92	$2128	$2200	
	92-93	$2128	$2400	
	93-94	$2128	$2600	
	94-95	$2128	$2800	
Local Share				(Tier 1)
Tax Rate	91-92	.54	.72	
	92-93	.70	.82	
	93-94	.70	.92	
	94-95	.70	$1.00	
Guaranteed Yield Maximum				
Tax Rate	91-92	varied based	.45	
	92-93	on a four-year	.45	(Tier 2)
	93-94	phase-in of	.45	
	94-95	funding increases	.45	
Guaranteed Dollars per				
One Cent of Guaranteed				
Yield Tax Effort	91-92	$26.05	$21.50	
	92-93	$26.05	$22.50	(Tier 3)
	93-94	$26.05	$26.00	
	94-95	$26.05	$28.00	

Overview of New School Finance System Structure



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Strengths and Weaknesses Of Senate Bill 351

Like most legislation, Senate Bill 351 has a mixture of strengths and weaknesses which are a reflection of the many compromises required to make the reform more palatable to the diverse interest groups. Highlights of the bill's positive and negative features are summarized.

Strengths

County Taxing Units

As noted earlier, the creation of county education units is the most equalizing aspect of the reform bill. Creation of these units allows the state to utilize all of the state's property wealth to completely equalize funding for the state's Foundation School Program, the first and usually the largest tier of the state funding system. The uniform county unit tax rate set in the legislation also completely equalizes the tax effort that each district must make to support the cost of a basic education for all children throughout the state.

Guaranteed Yield

Additional funding based on a guaranteed yield approach, provided in the second tier of the system, helps to equalize local supplementing of the foundation program. Increases in the guaranteed yield levels for each cent of tax effort, as well as increases in the number of cents which were included in the guaranteed yield program, also expanded the extent to which the system equalized supplemental spending for most school districts.

Caps

The caps incorporated in the bill (both a tax rate cap of $1.50 and a revenue limit) also help to ensure that a certain degree of equity is maintained in the system over time.

Weaknesses

While an improvement over the status quo, Senate Bill 351 also has an array of weaknesses which inhibits or detracts from its more equitable features.

Under-Funding of Guaranteed Yield

Continued funding of the Guaranteed Yield portion of the system was considered a positive feature in the legislation, but the **level of funding** per one cent of effort was actually decreased from Senate Bill 1 levels for three of the four years covered by the new legislation (see previous chart). More importantly, the guaranteed levels set by the state will still allow districts with extensive property wealth (i.e., those districts with tax bases where one cent of tax effort yields more than the guaranteed amount per

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pupil) to out-spend poor and average wealth school systems.

For example, a district with a tax base of $400,000 per weighted student will continue to raise $40 per weighted student for each penny of tax effort, while a poor school district will be guaranteed a maximum of $28 per weighted student for that same one cent tax effort. This unequal return for tax effort at the second tier will continue to enable wealthier districts to raise more revenue at lower tax rates than the average and low wealth school systems.

Continued Unequalized Enrichment

While the limits on tax rates and percentages of students enrolled in districts that spend more than the state's equalized funding level is an improvement, the system continues to allow for completely unequalized enrichment in its third tier. For every cent of tax effort above the tier 2 level, a district with a tax base of $25,000 per pupil will generate only $2.50 for every penny of tax effort while a district with a tax base of $500,000 per pupil will generate $50 per pupil for that same one cent effort.

No Funding For Facilities

The bill fails to provide specific funding for facilities. Although debt service tax effort is recognized in the guaranteed yield portion of the formulas, critics charge that this does not change the fact that under the new plan districts are forced to make a choice between spending guaranteed yield funding for buildings or programs. This is a dilemma in districts that require more funding in both areas. Although the promise of future funding for facilities is provided in the legislation (as is an emergency facilities appropriation of $50 million for 1992-93), no specific long-term appropriation for facilities is provided in the legislation.

Even if the $50 million dollars is made available for school facilities in 1992-93, it will be a drop in the bucket compared to the $1.5 billion being spent on Texas school facilities each year.

Changes in Local Property Taxes

A significant percentage of the new money to be provided for public education by this legislation will be generated by increases in local property taxes in school districts throughout the state. Numerous studies have established that the property tax is one of the state's most regressive taxes, a tax that disproportionately impacts low income tax payers and those on fixed incomes. In an era when state leaders are urging a change in the state's archaic tax structure, the school finance bill creates and expands reliance on such taxes moving us backward, rather than forward in this critical revenue area.

A second tax related shortcoming in the bill is its use of tax collection effort figures, rather than upon the tax rates adopted by local boards or some intermediate measure of tax effort. Research has shown that districts comprised of lower income, rural communities with higher concentrations of single family residents and older citizens on a fixed income, have lower collection rates than more affluent areas and districts with greater concentrations of non-residential property. The legislation's contin-

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ued reliance on collection based tax effort tends to penalize those districts with the greatest need, and significantly inhibits those districts from maximizing the amount of state funding which is potentially available under the state's funding formulas.

Lack of Appropriations

A major drawback in the legislation is its failure to appropriate the revenue required to make the new system operational. Under revised legislative rules adopted in the 1980s all matters requiring funding are dealt within the state's comprehensive appropriations bill. While centralization has some advantages, the process subjects education to direct competition with highways, prisons, health services and an array of other issues during the appropriations process. In such a context the real needs of education and other human services issues are often compromised in the Legislature's tendency to play one issue against the other to the detriment of all concerned. Add to this context the state's estimated $4 billion shortfall, and it is reasonable to question whether the legislature can pass a tax bill in support of the appropriations required to fully fund Senate Bill 351.

Prospects For New/Additional Litigation

Although an improvement over the previous law, questions remain about the extent to which Senate Bill 351 will achieve greater funding equalization across Texas school systems. Both plaintiffs and plaintiff interveners have chosen to postpone further challenges to the state system pending a detailed review and analysis of the new law. However, a new challenge to the funding system created by Senate Bill 351 was filed by the ranks of the state's more affluent districts on May 3, 1991, and a hearing on their challenge is now pending.

Multi-County County Education Districts

All public school districts in the state will be combined into 188 county education districts for limited taxation purposes. Although most county education districts will consist of districts within their respective county (as determined by the location of their administrative offices), the following counties will be combined into their respective county education districts:

COUNTY

- Middland and Andres
- Victoria and Calhoun
- Armstrong, Carson and Randall
- Liberty and Chambers
- Bailey and Cochran
- Gaines, Borden, Dawson, Lubbock, Lynn, Terry and Yoakum
- Howard and Glasscock
- Hale and Hockley
- Schleicher, Tom Green, Sterling and Irion
- Hidalgo and Kenedy
- Kent, Crosby, Fisher, Garza and Scurry
- King, Cottle, Knox and Dickens
- Limestone and Falls
- Lipscomb, Gray, Hemphill, Hutchinson, Ochiltree and Roberts
- Mason, San Saba and Llano
- Matagorda, Jackson and Wharton
- Frio and McMullen
- Pecos, Crockett, Jeff Davis, Kinney, Presidio and Val Verde
- Bee and Refugio
- Sherman, Dallam, Hansford, Moore and Potter
- Somervell, Bosque, Erath, Hill and Johnson
- Kimble and Sutton
- Brewster and Terrell
- Upton, Crane, Ector and Reagan
- Wheeler, Collingsworth and Donley
- Loving, Winkler, Culberson, Reeves and Ward
- Starr and Zapata
- Stonewall and Jones
- Aransas and San Patricio
- Leon and Anderson
- Panola and Shelby

** Note: The list above reflects only the counties that were consolidated for tax base sharing purposes. Table courtesy of the Texas Education News, Vol. 8.*